REMARKS/ARGUMENTS

Restriction Requirement

The Office has required restriction between the following groups of claims:

I. claims 1-9 and 21-23, directed to a pharmaceutical composition, and

II. claims 24-39, directed to a method of treating sepsis, SIRS, and/or septic shock.

Applicants elect, with traverse, the claims of Group I (claims 1-9 and 21-23) for further prosecution. Applicants request that, if the elected product claims are found allowable, any withdrawn process claims that depend from or otherwise require all of the limitations of an allowable product claim will be rejoined and examined.

Discussion of the Restriction Requirement

The Office Action requires restriction of the pending claims under PCT Rule 13.1 as allegedly lacking a "single general inventive concept." The Office Action alleges that the inventions defined by the claims of Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the claims of Groups I and II lack the same "special technical features." Under PCT Rule 13.2, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. PCT Rule 13.2 defines the term "special technical features" as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art (see M.P.E.P. § 1893.03(d)).

Applicants submit that the claims of Groups I and II are linked so as to form a single general inventive concept. In other words, the claims of Groups I and II share a common special technical feature, which defines the contribution that each claim makes over the prior art. Contrary to the Office Action's allegation, the subject matter defined by the claims of Groups I and II is not disclosed in U.S. Patent 5,110,722 (Brockbank et al.). In this respect, Brockbank et al. discloses a storage solution containing, *inter alia*, selenium, insulin, and hydrocortisone. However, this storage solution is not a "pharmaceutical" composition,

inasmuch as it contains phenol red, which is incompatible for pharmaceutical use. As such, Brockbank et al. does not disclose a pharmaceutical composition as required by the elected claims. Therefore, the claims of Groups I and II define a common contribution over the prior art, namely, the pharmaceutical composition recited in all of the pending claims.

Given the special technical feature common to the claims of Groups I and II, a search for prior art with respect to Group I would likely uncover references that would be considered by the Examiner during the examination of the claims of Group II. As a result, the Examiner would incur no undue burden in examining the claims of Groups I and II at the same time. See also M.P.E.P. § 803 ("If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.").

In view of the foregoing, Applicants request that the restriction requirement with respect to the claims of Groups I and II be withdrawn and that the claims of Groups I and II be examined together.

Conclusion

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,

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